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BIPARTISAN ACTION NEEDED TO PROTECT MEDICARE AND OTHER VITAL PROGRAMS FROM DEVASTATING SPAYGO SEQUESTRATION CUTS

CONGRESS HAS COME TOGETHER REPEATEDLY ON A
BIPARTISAN BASIS TO PREVENT SPAYGO SEQUESTRATION –
THIS TIME SHOULD BE NO DIFFERENT

House Committee on the
BUDGET 

This document has not been reviewed and approved by the Democratic Caucus of the Budget Committee and may not necessarily reflect the views of all members.



INTRODUCTION

Congress must move within weeks to prevent painful and indiscriminate cuts to Medicare, farm supports, and other programs that provide vital benefits and services to American families and their communities. The cuts would result from a little-known law called the Statutory Pay-As-You-Go Act of 2010 (SPAYGO). There is a long, bipartisan history of Congress doing what is necessary to prevent SPAYGO from wreaking havoc on important programs. Once again, it is time to act.

SPAYGO requires across-the-board cuts (sequestration) to a defined set of programs if enacted legislation affecting mandatory spending or revenues increase net deficits. This law in essence keeps a running tab, or “scorecard,” of these net deficit effects. If, at the end of a session of Congress, the SPAYGO scorecard¹ shows a net debit for the upcoming year, numerous direct spending programs – many of which have bipartisan support – would get hit with mindless, destructive cuts. This pointless sequestration exercise poses a danger to numerous vital programs like Medicare, farm supports, social services, and resources for students and individuals with disabilities, which is why Congress has always intervened and must do so again now.

Statutory PAYGO sequestration has not occurred since the law was enacted — Congress has routinely adjusted the scorecard to prevent sequestration, with bipartisan support. It has “wiped” the scorecard, shifted balances to a future year, or exempted specific legislation from the scorecard, including under Republican majorities (see Appendix). Since 2018, Congress has enacted bipartisan legislation that has shifted or wiped balances five separate times. SPAYGO has never been an effective tool of fiscal policy.

SPAYGO requirements cannot be changed in reconciliation bills — A budget reconciliation bill such as American Rescue Plan Act of 2021 or the Build Back Better Act cannot exempt itself or other legislation from statutory PAYGO. Congress must enact separate legislation to avert any sequestration that may otherwise occur.

¹ Technically, there are two scorecards, which this report refers to collectively as “the scorecard.” For more detail, see [Additional FAQ on Statutory PAYGO](#).



That is why the Republican-led 115th Congress pre-emptively excluded the Tax Cuts and Jobs Act of 2017 from the scorecard via a bipartisan continuing resolution. Democrats voted with Republicans to avoid harmful across-the-board cuts despite our opposition to the reconciliation tax cuts that overwhelmingly benefited wealthy individuals and powerful corporations. The next year, Congress separately wiped the scorecard in the Bipartisan Budget Act of 2018, with 73 House Democrats voting with the Republican majority.

Earlier this year, the House passed H.R. 1868 to exclude the American Rescue Plan from the SPAYGO scorecard as well as make unrelated changes to Medicare and Medicaid. However, Republicans did not support the House-passed legislation, and the version that became law did not address the SPAYGO scorecard. Because Republicans can use the filibuster to block Senate action, preventing SPAYGO cuts will require Republicans to cooperate.

Inaction means deep, indiscriminate cuts to important programs — The statutory PAYGO scorecard maintained by OMB, while not fully up to date, currently shows a debit of \$388 billion in 2022. However, the actual maximum amount sequestered in 2022 would be much smaller, because the total base amount of direct spending that is available to be sequestered under current law equals far less than \$388 billion. If the debit at the end of this session of Congress is anywhere close to \$388 billion, the resulting sequestration would mean that entire programs – including programs that have long enjoyed bipartisan support – would be wiped out, and it still would not be enough to fulfill the entire SPAYGO sequestration requirement. Examples of programs that would be subject to these across-the-board cuts include:

- **Medicare payments** (reduction capped at 4 percent);
- Steep increase in loan origination fees for **federal student loans**;
- **Social Services Block Grants**, which are flexible grants to states to low-income and vulnerable individuals;
- **Vocational Rehabilitation State Grants** to states to assist individuals with physical or mental impairments in developing new work skills and finding employment;
- **Commodity Credit Corporation** farm price supports, which help stabilize and support farmer's incomes;



- **Crime Victims Fund**, which provides compensation to victims of crime and supports victims' services;
- **Prevention and Public Health Fund**, which expands investments in programs to improve health, primarily through the Centers for Disease Control and Prevention; and
- **Trade Adjustment Assistance**, which helps workers who have lost their jobs due to trade-related circumstances.

Impact of Build Back Better Act on amounts subject to sequester — The Build Back Better Act (BBB) creates new programs that will themselves be subject to sequester. As a result, if the BBB is enacted, the base amounts subject to sequester, as well as the maximum amount sequestered, would increase. However, from the perspective of existing programs already facing steep sequestration cuts in 2022, enactment of the BBB would make no difference. Programs that would get zeroed out in the absence of the BBB would still most likely get zeroed out if the BBB becomes law, and Medicare payments will get cut 4 percent either way.

CONCLUSION

Even in the wake of contentious legislation such as the 2017 tax law, Congress has come together repeatedly on a bipartisan basis to prevent SPAYGO sequestration and protect Medicare, farm supports, social services, resources for students and individuals with disabilities, and other programs Americans rely on. This time should be no different.

² SPAYGO exempts many major direct spending programs from sequestration, such as Medicaid, Social Security, veterans' benefits, and key low-income programs.



Appendix – History of Adjustments to the SPAYGO Scorecard

Legislation to wipe the scorecard (that is, to set all balances for the five- and ten-year scorecards to zero):

- P.L. 116-260, Consolidated Appropriations Act, 2021
- P.L. 116-37, Bipartisan Budget Act of 2019
- P.L. 115-123, Bipartisan Budget Act of 2018

Legislation to shift the balances on the scorecard to the next year:

- P.L. 116-69, Further Continuing Appropriations Act, 2020, and Further Health Extenders Act of 2019
- P.L. 116-5, Further Additional Continuing Appropriations Act, 2019

Legislation that was exempted from the scorecard, entirely or in part (excludes emergencies and bills from the 111th Congress that fell under the "current policy adjustment"):

- P.L. 116-94, Further Consolidated Appropriations Act, 2020
- P.L. 116-69, Further Continuing Appropriations Act, 2020, and Further Health Extenders Act of 2019
- P.L. 116-59, Continuing Appropriations Act, 2020, and Health Extenders Act of 2019
- P.L. 116-37, Bipartisan Budget Act of 2019
- P.L. 116-34, Never Forget the Heroes: James Zadroga, Ray Pfeifer, and Luis Alvarez Permanent Authorization of the September 11th Victim Compensation Fund Act
- P.L. 116-6, Consolidated Appropriations Act, 2019
- P.L. 115-271, Substance Use-Disorder Prevention that Promotes Opioid Recovery and Treatment for Patients and Communities Act
- P.L. 115-254, FAA Reauthorization Act of 2018
- P.L. 115-182, VA Maintaining Internal Systems and Strengthening Integrated Outside Networks Act of 2018 (also called the VA MISSION Act)
- P.L. 115-141, Consolidated Appropriations Act, 2018
- P.L. 115-123, Bipartisan Budget Act of 2018 (also contains emergency provisions)
- P.L. 115-120, Making further continuing appropriations for the fiscal year ending September 30, 2018, and for other purposes



- P.L. 115-97, An Act to provide for reconciliation pursuant to titles II and V of the concurrent resolution on the budget for fiscal year 2018 (also referred to as H.R. 1, the Tax Cuts and Jobs Act), was excluded entirely from the scorecards by Section 5002 of P.L. 115-96
- P.L. 115-96, An Act to amend the Homeland Security Act of 2002 to require the Secretary of Homeland Security to issue Department of Homeland Security-wide guidance and develop training programs as part of the Department of Homeland Security Blue Campaign, and for other purposes
- P.L. 115-30, Making further continuing appropriations for fiscal year 2017, and for other purposes
- P.L. 114-255, The 21st Century Cures Act (Division A)
- P.L. 114-113, Consolidated Appropriations Act of 2016 (Divisions M, N, O, P, and Q)
- P.L. 114-94, FAST Act
- P.L. 114-26, Defending Public Safety Employees' Retirement Act
- P.L. 114-10, Medicare Access and CHIP Reauthorization Act of 2015
- P.L. 113-295, To amend the Internal Revenue Code of 1986 to extend certain expiring provisions and make technical corrections, to amend the Internal Revenue Code of 1986 to provide for the tax treatment of ABLE accounts established under State programs for the care of family members with disabilities, and for other purposes
- P.L. 113-235, Consolidated and Further Continuing Appropriations Act, 2015 (Divisions M, N, O, and P)
- P.L. 113-159, Highway and Transportation Funding Act of 2014
- P.L. 113-93, Protecting Access to Medicare Act of 2014
- P.L. 113-76, Consolidated Appropriations Act, 2014 (Section 10001 of Division C)
- P.L. 113-67, Bipartisan Budget Act of 2013 and Pathway for SGR Reform Act of 2013
- P.L. 113-28, Bipartisan Student Loan Certainty Act of 2013
- P.L. 112-240, American Taxpayer Relief Act of 2012
- P.L. 112-141, Moving Ahead for Progress in the 21st Century Act
- P.L. 112-96, Middle Class Tax Relief and Job Creation Act of 2012
- P.L. 112-78, Temporary Payroll Tax Cut Continuation Act of 2011